HMRC - STSM066030 - Penalty On Late Notification Of An Issue Of A Bearer Instrument

Following the decisions by the European Court of Justice (ECJ) in October 2009 in the case of HSBC Holdings PLC and Vidacos Nominees Ltd v Commissioners for HM Revenue & Customs (C569/07), and the First-Tier Tribunal [Tax Chamber] (FTT) in March 2012 in the case of HSBC Holdings PLC and the Bank of New York Mellon Corporation v Commissioners for HM Revenue & Customs (TC/2009/16584), HM Revenue & Customs (HMRC) accepts that where shares and, by extension, bearer instruments/shares in a United Kingdom incorporated company are issued, the imposition of a 1.5 per cent stamp charge is incompatible with European Union law.

In these circumstances and until such time as the provisions of FA99/SCH15/PARA1 are amended, HMRC will not seek to collect 1.5 per cent stamp duty on the issue of a bearer instrument.

Notwithstanding this position, failure to comply with the remaining statutory requirements described in paragraph 21(2) of FA99/SCH15 in forwarding a bearer instrument with a statement containing details of the date of issue of such an instrument to HMRC Stamp Taxes and for a particular stamp to be impressed thereon denoting that the instrument has been duly stamped, may render the person by whom or on whose behalf it was issued and any person who acts as the agent of that person for the purposes of the issue, each liable to a penalty not exceeding £300.

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